



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,236	07/12/2004	Thomas Beckett	253871US0PCT	3554
22850	7590	01/08/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER SHEIKH, HUMERA N	
			ART UNIT	PAPER NUMBER
			1615	
			NOTIFICATION DATE	DELIVERY MODE
			01/08/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com



Art Unit: 1615

## **DETAILED ACTION**

### **Status of the Application**

Receipt of the Response after Non-Final Office Action, the Amendment and Applicant's Arguments/Remarks, all filed 10/01/08 is acknowledged.

In view of the newly submitted claim (claim 17), the following Restriction/Election is being required.

Claims 1-12 and 17 are pending in this action. Claims 1-12 and 17 are subject to an Election/Restriction requirement.

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-12, drawn to a pharmaceutical formulation.

Group II, claim(s) 17, drawn to a pharmaceutical formulation.

The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The special technical feature that is lacking in the Group II invention is the following: Group II does not require: (1) the intermediate layer of Group I which comprises 40 to 100% by weight free-radical polymerized units of C1 to C4 alkyl

Art Unit: 1615

esters of acrylic or methacrylic acid; (2) does not require the specific binder (vinylpyrrolidone vinyl acetate copolymer) of the Group I invention; (3) does not require that the outer envelope be a capsule and (4) does not require a multiparticulate form having at least two different types of pellets as is claimed in the Group I invention.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### **Correspondence**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Humera N. Sheikh whose telephone number is (571) 272-0604.

Art Unit: 1615

The examiner can normally be reached on Monday, Tuesday, Thursday and Friday during regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Humera N. Sheikh/

Primary Examiner, Art Unit 1615

*hns*

January 05, 2009

Application/Control Number: 10/501,236

Page 5

Art Unit: 1615